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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,003	07/10/2003	Jerald C. Seelig	619.625	4382
21707	7590	02/01/2006	EXAMINER	
IAN F. BURNS & ASSOCIATES P.O. BOX 71115 RENO, NV 89570			HOTALING, JOHN M	
			ART UNIT	PAPER NUMBER
			3714	
DATE MAILED: 02/01/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,003

Applicant(s)

SEELIG ET AL.

Examiner

John M. Hotaling II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 and 46-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 and 46-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-44, and 46-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poole US Patent 6,375,570 in view of Weiss US Patent 5,833,538. Poole discloses all of the instant application with respect to moving game reels, mechanical or simulated in response to a triggering event or a player input. Column 1:55-65 discloses that the term display means to show or perform or otherwise represent a person place or thing visually or audibly. Column 2 discloses that the computer of the gaming device uses the reels to perform certain exhibitions which are preferably related to the theme of the triggering combination. The term, exhibition as used in this specification means: (a) reels which are animated; and/or (b) an audio, visual or audiovisual representation of a person, place or thing in motion or at rest, including video images, graphics, activities, animations, virtual representations, simulations or movement. Animated reels are reels which have movement or simulated movement or reels which vibrate or shake, rotate, flip over, move upwards, downwards, or from side to side, bend, transform into a different shape or size, separate into different parts, expand or contract, change colors, shades or patterns, illuminate, make sounds or otherwise have dynamic characteristics (speed or direction). The computer can provide the exhibitions in one screen shot or in

a succession of screen shots. IT should be appreciated that the foregoing examples are merely illustration and that the computer can use the reels to perform any exhibition of any kind for any purpose. It should also be appreciated that the gaming device can be adapted to use the reels to perform exhibitions before during or after a triggering combination occurs or when the game begins or terminates. Column 3:15-22 discloses that the reels return to their original state displaying the triggering combination and then can be moved to simulate a particular outcome. Column 2:60-65 discloses that the gaming device also includes a plurality of windows for providing information to the player and for entertaining the player. Also, the gaming device preferably includes a plurality of buttons for operating the game. 4:41-46 disclose that the gaming device can incorporate any game such as slot, poker or keno in addition to any triggering combination. The indicia used on and in the gaming device may be in mechanical, electrical or video form. Column 5 discloses that there may be one or more processors in control of the game. Column 6 discloses that the gaming device can provide an exhibition before during or after the gaming device provides the player with an outcome, such as when the game begins or when the game terminates. Poole lacks in disclosing determining a number of consecutive losing events with respect to a determined threshold. In an analogous game machine to Weiss therein is disclosed to employ a random or pseudo-random "trigger" event to alter a player's expectation based upon the occurrence of a random or pseudo-random event for a specified "duration". The trigger event may be a random or pseudo-random event which happened on a specific gaming device, on another gaming device or that was determined by a host computer system

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and then communicated back to the specific gaming device. Also, in addition to random events particular to the game, the random event or events may be particular to a current player. The current player either identifies himself via an insertion of a player card into a reader or some other electronic method, or a computer determines a new player by monitoring an elapsed period of time between games played and comparing playing speeds, handle pulls per unit time, between the current player and a previous player. The trigger may be a predetermined random event or combination of predetermined random events such as a predetermined outcome or a finite series of consecutive outcomes with a total score of zero. Column 6 disclose that mechanical or video reels may be used. Column 7 disclose that the apparatus 10 will allow the gaming device 20 to operate in a normal default mode until a predetermined random or pseudo-random "trigger" event occurs. The trigger event may be a random or pseudo-random event which happened on one specific gaming device 20, on another gaming device 20, on a host computer 70 or that was determined by a processing means 50 and then communicated back to the specific slot machine via communication lines 52. Also, in addition to random or pseudo-random events particular to the game, the random event or events may be particular to a current player. For example, the current player may be identified via the use of the player card 48 scanned by the reader 28 or by some other electronic method. In addition, a new player may be automatically identified by using the processing means 50 for monitoring an elapsed period of time between games played and comparing playing speeds, handle pulls or button pushes per unit time, between the current player and a previous player. The trigger events may be the

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occurrence of a predetermined random or pseudo-random event. For example, the trigger may be a predetermined random event or a combination of predetermined random events such as a predetermined unique outcome, consecutive outcomes with a total score of zero or a certain number of consecutive winning or losing outcomes. The key is that they be predetermined random or pseudo-random events. A random number generator 53 may be employed to provide a random event. It would have been obvious at the time of the invention to combine the references in order to move a basic or bonus game in any of the disclosed manners based on a player input and to enable or disable the player input based on the state of the game and to provide a consolation award based on a predetermined number of losing or winning outcomes as disclosed in Poole Column 1 to increase player enjoyment and excitement to provide players with games which use reels to determine game outcomes and also to provide exhibitions in order to bring attention to events and to entertain players.

Response to Arguments

Applicant's arguments filed 2/28/05 have been fully considered but they are not persuasive.

With respect to applicant's arguments that claims 1 and 15

The Applicant argues that "Independent claims 1 and 15 of Applicant's application specifically require a player input device that can allow the player to move a game element when a game is not being played. Neither device of Poole or Weiss teach, disclose or suggest the use of a player input device that allows the player to

move game elements or objects during periods in which the game is not being played. Poole and Weiss are completely devoid of any reference to allow a player to use a player input device to move game elements in a different manner than during game play.” The examiner notes that the manner in which the movable game element is not specified in the claim and one manner which a player may move a movable game element is to use a stop button. Additionally the “use of a player input device that allows the player to move game elements or objects during periods in which the game is not being played” is not claimed.

With respect to claim 19 the disabling of the input device this is inherent in the game machine since once the reels are spinning you can’t start a new game until the old game is over by pressing the spin button or pulling the handle. With respect to the argument against claim 20 please see 8:59-9:14 where all game operations are suspended if said duration timer is expired. One of ordinary skill would understand that a player may or may not input the device and a duration timer may expire thereby disabling the incentive mode and input device.

In response to applicant’s argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestion to

combine is available in the knowledge generally available to one of ordinary skill in the art of consolation prizes or providing a advantage to a player in accordance with game play.

The Applicant argues that "Independent claims 30 and 46 of Applicant's application specifically require the steps of determining the number of consecutive losing events or outcomes and moving the moveable objects in a second manner if the number of consecutive outcomes of the same type is a threshold number. Neither device of Poole or Weiss, teach, disclose or suggest counting losing events and moving the moveable objects in a different manner when the game is not being played. Weiss discloses varying between several theoretical expectations on a game device for a minimum duration period." The examiner notes that the above-argued features are not claimed. Furthermore Weiss does disclose counting the number of games of one type in column 8:15-20.

The Applicant argues that "Independent claim 60 of Applicant's application specifically requires the steps of determining a number of losing outcomes, moving the display means in a first manner during game play and moving the display means in a second manner after a threshold number of consecutive losing outcomes." The examiner notes that while the detailed description of the specification to Weiss only addresses counting the number of winning events that the object of the invention is to control the control the mixture of penalties (losers) and rewards (winners) to allow players to enjoy greater amusement from playing the improved devices and thus losing events could additionally be counted

Independent claim 68 of Applicant's application specifically requires moving moveable objects from a first position after the game is played to another position and then returning the moveable objects to the first position prior to the start of another game. Column 3:15-22 discloses that the reels return to their original state displaying the triggering combination after an exhibition and then can be moved to simulate a particular outcome.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Hotaling II whose telephone number is (571) 272 4437. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272 3507. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JOHN M. HOTALING, II
PRIMARY EXAMINER

January 30, 2006